

MISSOURI DEPARTMENT OF
HEALTH AND SENIOR SERVICES

FAMILY CARE SAFETY REGISTRY

ANNUAL REPORT

FISCAL YEAR 2010



FAMILY CARE SAFETY REGISTRY

Annual Report – FY 2010

Table of Contents

Introduction	1
FCSR Operations.....	2
Toll-Free Access Line	5
Legislative and Operational Enhancements	6
Barriers and Recommendations	7

INTRODUCTION

Families are faced with difficult decisions when hiring someone to help care for a child, elderly or disabled person, whether it is locating child care, placing a family member in a nursing home, or finding a caregiver to come into their private home to provide care. Many times this caregiver has unsupervised access to these most vulnerable family members. The family may have limited time to form an opinion about the suitability of a caregiver and may have little or no opportunity to make inquiries into their background. Several state agencies collect information that can assist the family with making a decision. However, it can take anywhere from several days to several weeks to request and receive background screening information from separate agencies. Likewise, many employers of caregivers are required to obtain background screening information for licensure, regulatory or contracting purposes. Employers, such as child care centers and nursing homes, often have difficulty recruiting and maintaining skilled staff, and the delays they experience in obtaining background screening results affect their ability to assess the suitability of job applicants and to hire and retain staff. In response to these needs, the Family Care Safety Registry (FCSR) was created.

The Missouri Department of Health and Senior Services, in coordination with the Departments of Social Services, Public Safety, Mental Health and Corrections, established the FCSR on January 1, 2001 in accordance with the Family Care Safety Act (sections 210.900 to 210.936, RSMo). The FCSR serves as a central resource for background screening information maintained by the Missouri State Highway Patrol (MSHP), Department of Social Services (DSS), Department of Mental Health (DMH) and the Department of Health and Senior Services (DHSS). Those wishing to hire a caregiver may contact the FCSR using a toll-free access line or the Internet to obtain background information. Information reported by the FCSR includes name-based criminal history, the Missouri sex offender registry, substantiated claims of child abuse/neglect, the DHSS Employee Disqualification List, the DMH Employee Disqualification Registry, and child care license and foster parent license denials, revocations and suspensions.

The FCSR became operational January 1, 2001, and utilizes a computerized interface to streamline the process of obtaining background information from various state agencies. The FCSR maintains a toll-free access line that allows callers to receive immediate responses to background screening inquiries, as often as they like at no cost. The access line is staffed from 7:00 a.m. to 5:00 p.m., Monday through Friday.

FCSR OPERATIONS

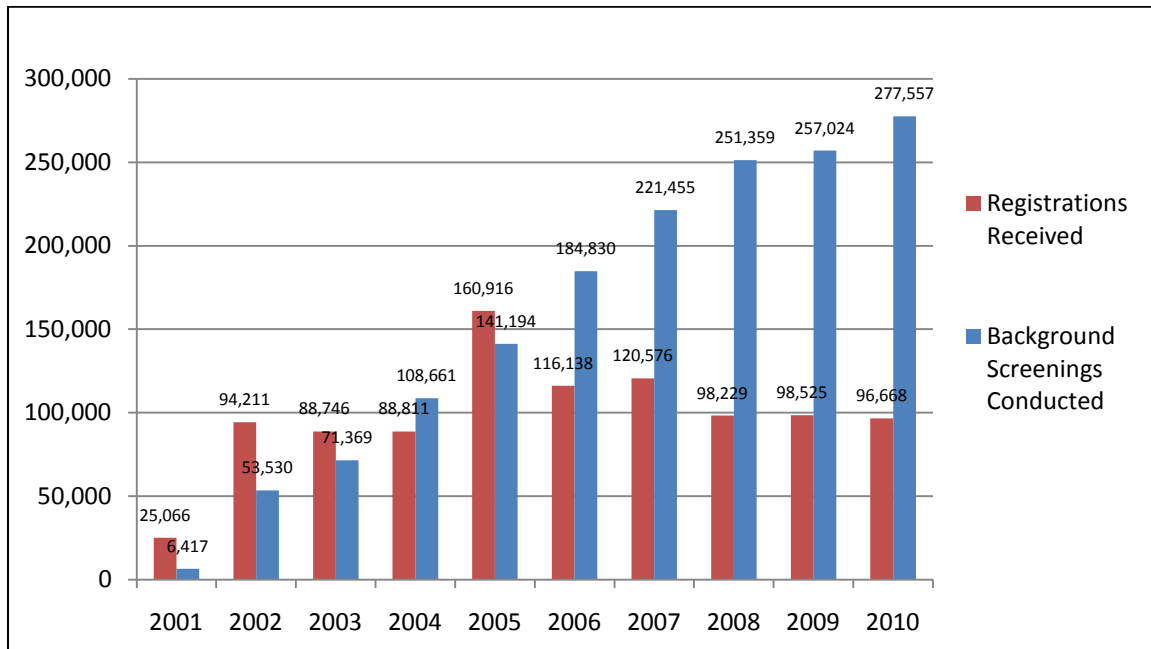
The FCSR maintains a database of caregivers, required by law to register within fifteen days of hire. The caregiver's demographic information, including name, address, social security number and date of birth, is entered into a computerized database and background screening system. As part of the registration process, a background screening is conducted using an electronic interface to search criminal history, the sex offender registry, the child abuse/neglect registry, the DHSS Employee Disqualification List, the DMH Employee Disqualification Registry, child care licensure and foster parent license information. The result of the background screening reflects real-time information from these electronic files. A registration notification letter provides the caregiver with initial background screening results.

After registration is completed, employers (including family members wishing to hire caregivers) may contact the FCSR via the toll-free access telephone line, the Internet, facsimile or mail to obtain a background screening on registered caregivers, at no cost to the requestor. A current background screening is obtained using the computerized interface each time a request is received. This means if information is added or deleted from the electronic files by an interfaced agency (DSS, DHSS, DMH, MSHP), the addition or deletion will be reflected in the result reported. Both the requestor and the caregiver receive written notification of the background screening results provided. The caregiver's notification letter includes the name and address of the employer who made the inquiry.

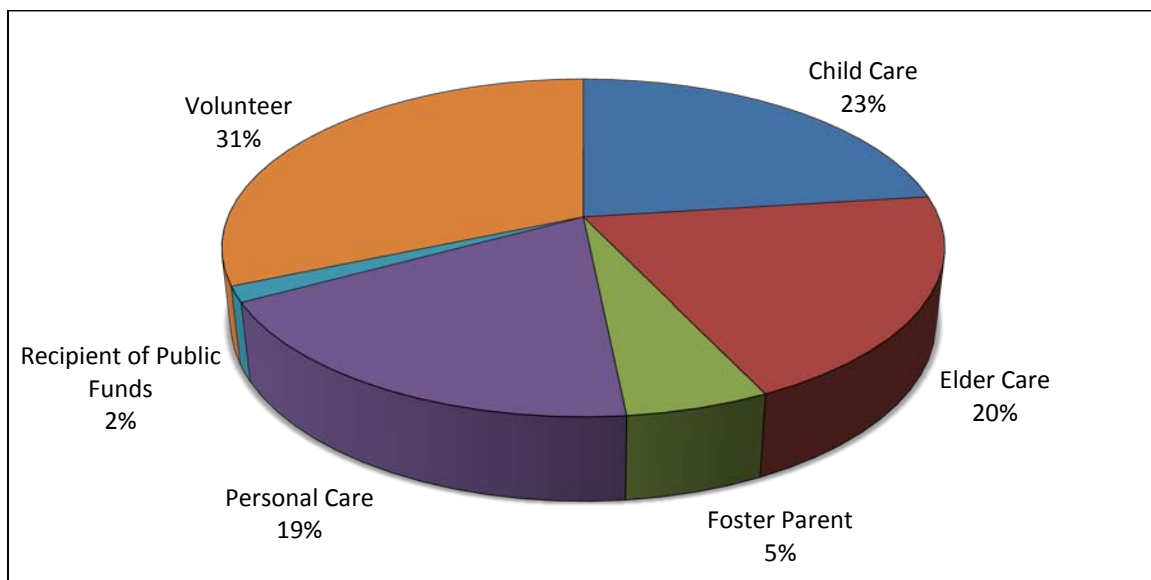
The FCSR is a request-driven system, meaning that information is provided to employers only when they contact the FCSR. The FCSR is not authorized to initiate contact with employers or regulatory agencies to alert them of a change in the background of an individual, or to enforce registration requirements.

Since January 1, 2001, the FCSR has processed 728,834 caregiver registrations and has conducted 1,569,668 background screenings. From FY 2009 to FY 2010, the FCSR experienced a 1.88% decrease in the receipt of new registrations and an 8% increase in the number of requests for background screenings.

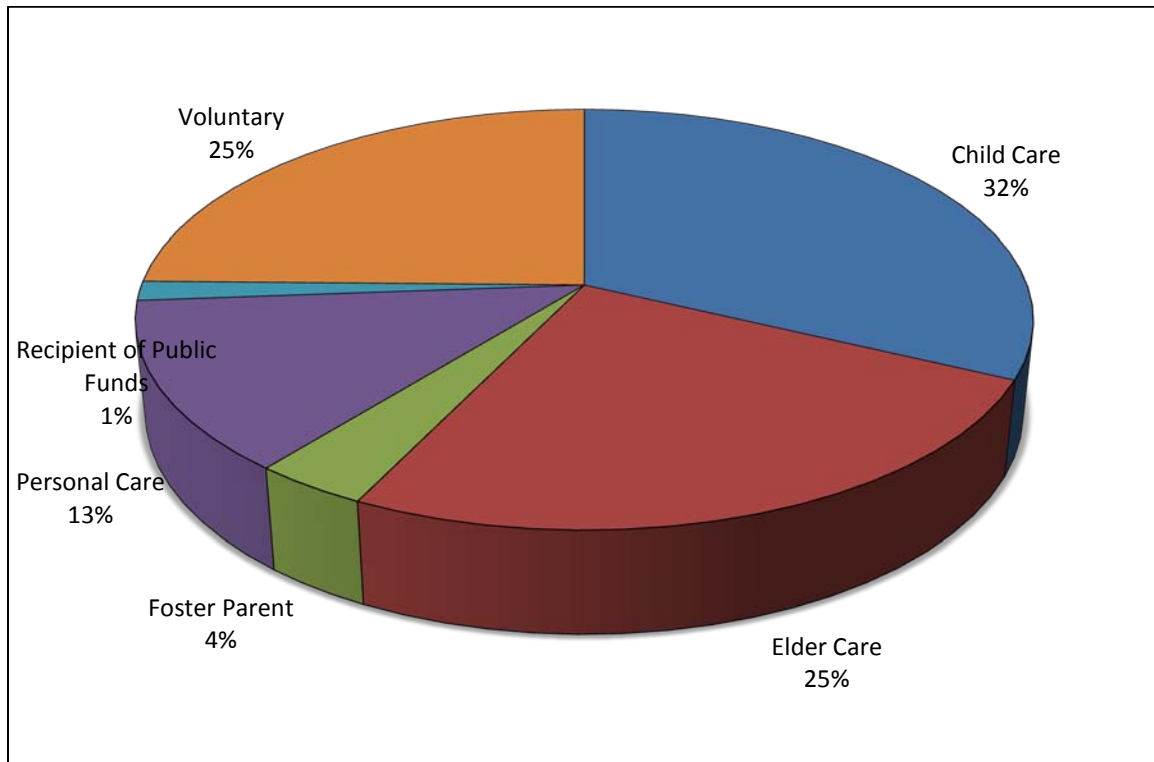
FCSR Activity FY 2001 – FY 2010



Registrations by Caregiver Occupation FY 2010



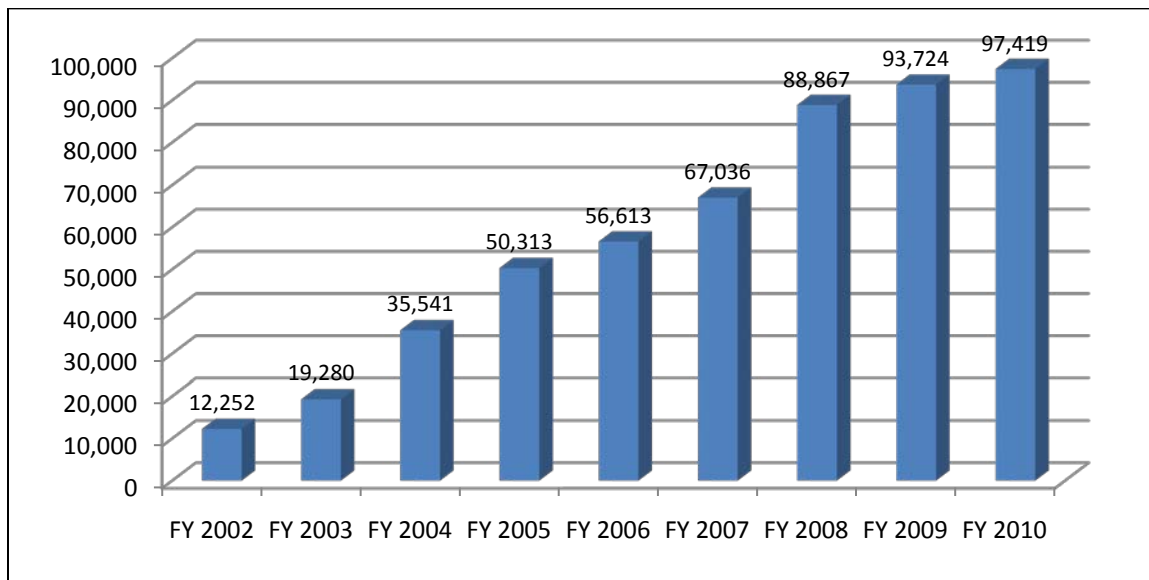
FCSR Background Screening Requests by Caregiver Occupation
FY 2010



TOLL-FREE ACCESS LINE

As authorized in section 210.903, RSMo, the FCSR makes a toll-free access line available to families and employers for the purpose of immediately obtaining background screening results. The access line is staffed by 13 individuals (12.25 FTEs) who assist callers not only by providing background screening results, but also by explaining the results and identifying other resources for information. In addition to the background screening requests received by Internet, mail and facsimile, the FCSR received 97,419 calls on the toll-free access line in FY 2010. The following chart shows the growth in calls to the toll-free access line since the line became operational in January 2001 (FY 2002).

Toll-Free Access Line Activity – Calls Received
FY 2002 – FY 2010

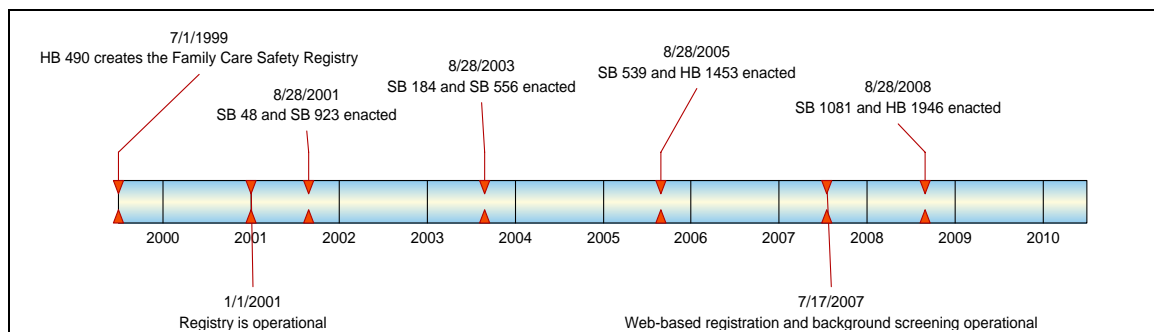


LEGISLATIVE AND OPERATIONAL ENHANCEMENTS

In FY 2008, development was completed on an Internet-based application designed to allow individuals to register online, paying with a debit or credit card. The Web Registration project was developed in collaboration with the Office of Administration—Information Technology Services Division (ITSD) and was implemented July 17, 2007. Since implementation, benefits of web registration have included improved customer service and response time, and a reduction in the need for additional FCSR staffing as the workload continues to increase. The FCSR immediately began receiving background screening requests via the Internet, with twenty-five to thirty percent of such requests currently received in this manner. Web-based background screening is available to providers who are licensed by or contracted with the DHSS or other state agencies. The benefits of receiving background screening requests via the web have been similar to those of receiving registrations online.

Future technology projects under consideration include replacing the existing computer system with an Internet-based system. This project is necessary because the existing MOHSAIC system, developed in the early 1990's, is obsolete. The Division of Regulation and Licensure has been awarded a federal background screening grant through the Department of Health and Human Services—Centers for Medicare and Medicaid Services (CMS), which will require better automation, greater speed, a more intensive background screening process, and a more robust linkage with the MSHP—Criminal Justice Information Services Division. The grant is entitled “Nationwide Program for National and State Background Checks for Direct Patient Access Employees of Long Term Care Facilities and Providers,” and is discussed further in several of the items in the Barriers and Recommendations section of this report. As it implements the grant requirements, the FCSR will continue to work with the MSHP, DMH, DSS, and other state agencies as appropriate, to integrate background screening information sources already developed. This collaboration will allow the Department to maximize state resources and utilize proven technology, ultimately reducing or eliminating the need for funding new initiatives.

Changes in FCSR responsibilities have been made as a result of the passage of legislation. The timeline below illustrates the legislative and operational milestones affecting the FCSR since its inception.



BARRIERS AND RECOMMENDATIONS

The FCSR continues to explore ways to improve and expand the services it provides, to better protect vulnerable children, seniors, and disabled individuals in care. The following recommendations are based on input from employers, providers, other state agencies, and the Centers for Medicare and Medicaid Services (CMS).

1. The FCSR utilizes the MOHSAIC system developed by ITSD in the mid-1990's to capture registrant data and conduct background screening searches. ITSD originally developed this system using DELPHI software, which is obsolete and no longer compatible with the ORACLE software now used for data storage and other functions. Software maintenance is no longer available to allow for repair in the event of system failure. The FCSR estimates that 80 salary hours per employee conducting background screenings were lost in FY 2010 due to system downtime, at a cost of \$26,634. ITSD has predicted that the DELPHI software will fail in the near future. If this occurs, the FCSR will be unable to comply with statutory background screening requirements.

RECOMMENDATION: Use funding from the CMS grant for the purpose of redesigning and converting the FCSR to an Internet-based application, to include an encrypted, secure web-site to allow employers to view and download detailed background screening information directly, rather than receive the information by mail. The new system would be more stable than the current one, with less risk of failure or downtime, thus reducing delays in both the registration and background screening processes. The new system will improve access to information and will automate more of the background screening process, thus reducing costly delays in hiring for employers and FCSR staff inefficiencies caused by the current, obsolete system. Further, a new system is necessary to comply with CMS grant requirements, including an interface with the Missouri State Highway Patrol for state and FBI fingerprinted criminal records searches and RAP-back (whereby the FCSR is immediately notified of additions to criminal RAP sheets that may render a registrant ineligible for employment); integration of Good Cause Waiver and Child Care Background Screening Waiver program functions and data; and an automated employment eligibility determination mechanism.

2. The CMS grant requires caregivers in certain long term care settings (including skilled nursing facilities, nursing homes, long term care hospitals and swing beds, hospices, assisted living facilities, home and community based services providers, adult day health care centers, and some residential facilities operated or regulated by the DMH and DSS), to submit to a three-step background screening process that includes self-disclosure, FCSR (state registry) screening, and state and FBI fingerprinted criminal background searches. Because of the real possibility of a person disqualified for employment in one state moving to another state and seeking similar employment, many employers and licensure agencies believe there is an increased risk for harm to occur if the background screening does not reflect an individual's complete criminal history. As required by the grant, the DHSS is the sole state agency responsible for coordinating the three-step background screening process. Changes to Sections 660.317 and 210.900 to 210.936, RSMo, will be necessary to require applicants or employees working for long term care providers to submit to the three-step background screening process, to authorize the FCSR to coordinate the process and make employment eligibility determinations, and to require long term care providers/employers to ensure their staff members are in compliance with background screening requirements. This authorization will make the FCSR the centralized point for the request and release of background screening and employment eligibility information for long term care providers.

As part of the grant application and implementation planning processes, the FCSR identified opportunities to provide enhanced and centralized state and federal registry information to employers. Examples of such registries or databases include the national sex offender database, the Certified Nurse Assistant (CNA) Registry, nursing home administrator licensure information maintained by the DHSS, information maintained by agencies regulating nurses, physicians, therapists and social workers, other relevant licensing information maintained by the Division of Professional Registration, and teacher/educator licensing and certification data maintained by the Department of Elementary and Secondary Education. Allowing access to this information from a central source, such as the FCSR, would reduce duplication of effort and expense for employers and expedite the employment eligibility determination and hiring processes. Another consideration is that, by omitting this information, it is possible for individuals who have had their teaching license or certification revoked or disciplined to work in a licensed child care center or home. Individuals who have had their RN or LPN license suspended, revoked or disciplined could potentially work unsupervised, providing services to an elderly or disabled person in their home. Further, authorization for checking some of the additional databases, such as the CNA Registry, is necessary in order for the DHSS to comply with CMS grant requirements.

RECOMMENDATION: Make legislative changes as listed below:

- Amend sections 210.900 to 210.906, RSMo, and add new section(s) as necessary, to authorize the DHSS, and specifically, the FCSR, to operate as the single state agency responsible for coordinating the three-step background screening process for employees (or job applicants) of certain long term care providers, and to make the employment eligibility determinations at the state level.
- Amend section 660.317, RSMo and other statutes that require background screening to require employers regulated by or contracting with various state agencies, or who receive state or federal reimbursement for services to ensure employees submit to the three-step background screening process and are eligible for employment. Monitoring of the requirement will be incorporated into the inspection protocols currently in place in the DHSS, DMH and DSS. Also amend this section to define specific disqualifications and penalties for licensed or regulated individuals or employers, to require repeat FCSR (state registry) screenings at least annually, and to allow for employer/provider liability protection. State and FBI fingerprinted criminal history searches will only need to be completed at the time of initial hire, as the availability of RAP-back notices will render repeat searches unnecessary.
- Amend sections 210.903 and 210.909, RSMo, to authorize the FCSR to include data from the national sex offender database, accessible through the Missouri State Highway Patrol, and to integrate licensure and certification information maintained by various state agencies.
- Amend section 210.906, RSMo, to require the individual employee/applicant to submit to the three-step background screening process, including the payment of associated fees, which may or may not be reimbursed by the employer/potential employer, at the time of initial hire. Because the MSHP will have RAP-back capability in place by the time the new three-step system is implemented, it is unlikely the employee/applicant would have to pay criminal background screening fees more than once. RAP-back allows for continuous updates of the individual's criminal record if they re-offend or as charges are disposed, so that the individual or employer does not have to request and pay for periodic, updated criminal background checks.

3. The FCSR does not have access to and is not authorized to release driving records on file with the Department of Revenue (DOR). In situations where employers such as child care centers, long-term care centers, and adult day care centers provide transportation services, it is important for the employer to have access to driving record information, such as municipal court DWI convictions. These driving records are not usually incorporated into the criminal history information reported by the MSHP as part of a background screening. Employers are currently able to contact the DOR to request a copy of an individual's driving record for this purpose. Expanding the FCSR's authority to include driving records would reduce duplication and expense for employers responsible for the transport of vulnerable citizens. Non-criminal driving record information would not be considered as an employment eligibility disqualifier, but rather would be used by the individual employer to determine the employee/applicant's suitability for any given position that requires driving.

RECOMMENDATION: Amend section 210.903, RSMo to allow the FCSR to report Missouri driving record information currently available through the DOR. State funding will be required to expand the electronic interface used by the FCSR to access and report this information, as it is not required by the CMS grant and therefore not payable with grant funds.

4. Section 210.921, RSMo, restricts release of FCSR information for employment purposes, and defines "employment purposes" as direct employer-employee relationships, prospective employer-employee relationships, and screening and interviewing of persons or facilities by those persons contemplating the placement of an individual in a child-care, elder-care or personal-care setting. The DHSS—FCSR has interpreted such employees to include those who are paid or unpaid. However, many voluntary or recreational associations, such as scouting organizations or faith-based youth groups, have expressed interest in utilizing the FCSR to obtain background screening information, but are not always comfortable doing so because the individuals they are screening are unpaid volunteers, and the statutory definition of "employment purposes" does not specifically list volunteers. Instead, many of these voluntary associations currently use an outdated request system called the Caregiver Background Screening Service (CBSS). The CBSS was created by Executive Order 99-05 in 1999 by Governor Carnahan and was intended to be replaced eventually by the FCSR. In order to better accommodate requests from voluntary agencies, the Registry's statute would need a minor revision to include the word "volunteer" in the definition of "employment purposes."

RECOMMENDATION: Amend Section 210.921.1, RSMo, to add "direct employer-volunteer relationships and prospective employer-volunteer relationships" to the definition of "employment purposes." This legislative change would not require additional funding for implementation.